#### CIVIL COMPLAINT FORM TO BE USED BY A PROSE PRISONER

## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Shown Simms JP4037	:
Full Name of Plaintiff Inmate Number	:
	: Civil No.
v.	: (to be filled in by the Clerk's Office)
Morris L. Houser	: (X) Demand for Jury Trial
Name of Defendant 1	: () No Jury Trial Demand
J. Rivello	ಕ್ಷಿ ಕ್ಷಾಪ್ ಕ್ಷಿ ಕ್ಷಾಪ್ ಕ್ಷಿಪ್
Name of Defendant 2	SCRANTON
Timothy Miller	: FEB 2 2 2021
Name of Defendant 3	PER AMP
Sherman	DEPUTY CLERK
Name of Defendant 4	1
Vangordor	:
Name of Defendant 5 et. al.	:
(Print the names of all defendants. If the names of all	:
defendants do not fit in this space, you may attach	:
additional pages. Do not include addresses in this	
section).	:
I. NATURE OF COMPLAINT	
Indicate below the federal legal basis for your claim, if	known.
Civil Rights Action under 42 U.S.C. § 1983 (st	
Civil Rights Action under <u>Bivens v. Six Unkno</u> (1971) (federal defendants)	
Negligence Action under the Federal Tort Clair United States	- · · <del>-</del>
- Civil Rights Action under le conspiracy cialms Page 10	42 U.S.C. \$1985(3) and £ 1986

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ΑD	DRESSES AND INFORMATION
A.	PLAINTIFF
<u> </u>	Simms, Shawn M.
Nar	ne (Last, First, MI) TP4037
	sate Number  5, C. I., Rocky ew
_	ce of Confinement
	ellefonte, Pa. 16823
	, County, State, Zip Code
Indi	cate whether you are a prisoner or other confined person as follows:
	Pretrial detainee
	Civilly committed detainee
	Immigration detainee
X	Convicted and sentenced state prisoner
	Convicted and sentenced federal prisoner
в.	DEFENDANT(S)
Prov	ride the information below for each defendant. Attach additional pages if needed.
inco	te sure that the defendant(s) listed below are identical to those contained in the caption. If rrect information is provided, it could result in the delay or prevention of service of the plaint.
Defe	endant 1:
H	user, Marris L.
	ue (Last, First)
	eputy Warden at Rockview
	ent Job Title
	ox A
Curr	ent Work Address
_B	elle fonde, pa. 16823
,	County, State, Zip Code

Defendant 2:
Rivello
Name (Last, First) Deputy Warden at Rockviev
Current Job Title  Box A
Current Work Address Bellefonde, 19, 16823
City, County, State, Zip Code
Defendant 3:
Miller, Timothy
Name (Last, First) LPM 9+ Rock Wew
Current Job Title  Rox A
Current Work Address Belle Forte, Pa. 16823
City, County, State, Zip Code
Defendant 4:
Sherman
Name (Last, First)
Security Lt at Rockview
Current Job Title Rox A
Current Work Address Bellefonte, Pa. 16823
City, County, State, Zip Code
Defendant 5:
Vangordor
Name (Last, First)
Security Captain at Rockview
Current Job Title
Belle fonte, Pa. 16823
City, County, State, Zip Code

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	Defindants Cont.
	Defendant 6
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#### III. STATEMENT OF FACTS

State only the facts of your claim below. Include all the facts you consider important. Attach additional pages if needed.

A. Describe where and when the events giving rise to your claim(s) arose. 4-6-20, 10-7-20, 11-5-20, 12-3-20, and 12-30-20 on 6 Housing Unit, 5, 6, T, Rockview

B. On what date did the events giving rise to your claim(s) occur? 4-6-20, 10-7-20, 11-5-20, 12-3-20, and 12-30-20

C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what?)

On 4-6-20 I wrote a letter to an outside D.D.C. official and the master (PREA) was referred to Byerice (Psych at Rockview Upon taking my report, defendant byerlee sabataged my report by leaving certain things out, etc. Defendants Rutherford ( acting off of the sabatoged report and failing to abide PREA policy (by doing "check-ups" etc), failed lo a proper investigation resulting in a misconduct being Issued to me. 4. The misconduct exposed highly sensitive medical-type information and exposed that I made an official report on a fellow inmake to staff, this labeling me a "snitch" 5. The misconduct was entered into the D.O.C. computer (like all misconducts) and this enabled non-essential Staff to view it and show other inmades. 6. I then Storted to recieve "notification" from

# Statement of facts

-	
	Other inmotes about gong members wanting to
	Kill me. Specifically, the going members who encerted
***	the PREA misconduct put a "price on my need."
	7. I then Storted in forming security about these
	threats. I also took other measures which eltimately
	got referred back to non-responsive security defondants
	Defendants Vangordor and Sherman made no response
-4-	or took any descernable action to investigate the
	mother or protect me
-	8. On 10-7-20, PRC (defendants Houser, miller,
- 6	and Rivello) gave the orders to let me back out
,	To population. This made me choose between being
	Stabbed to death/catching COVID19 or Staying in
-	the psychological torture cell (Solitary confinement).
-	9. I refused to go to population to preserve my life and
-	Z was given a misconduct for long so,
	10. I Submitted an "inmates version" which was read by the
	hearing examiner, then forwarded to security. Nothing happoned
	to my benefity only to my detriment (30 days purshment).
	11. I Finished exbacusking to Final review with no change.
	12. This process was then repeated 3 more times with
-	no results (11-5-20, 12-3-20, and 12-30-20). The only
	versication was on 11-5-20 when PRC intentionally
	ordered me to go to an Enhanced Quarinzine" Housing unit
***************************************	with confirmed COVID19 cases during a mass
	outbreak within Rockview (including the Housing unit
	I was supposed to go tol.
1	13. I Thied to grieve the PREA issue PSI
	,

## Statement of facts

but since a misconduct was issued, D.D.C. policy prevents me from filing grievences on misconducts / issues misconducts were issued over.

14. The misconduct was later dismissed without prejudice but the damage was alteredy done. This calso prevented me from remedies associated with misconducts. There are no other remedies available to me.

15. On 1-14-21, I was placed on A/C pending transfer to the "PCU" in S.C.I. Forest where it is notorious for violence and a high concentration of the same gang members I'm seeking protection from.

#### IV. LEGAL CLAIM(S)

You are not required to make legal argument or cite any cases or statutes. However, state what constitutional rights, statutes, or laws you believe were violated by the above actions. If you intend to assert multiple claims, number and set forth each claim in separate paragraphs. Attach additional pages if needed.

Amendment

1. Oh 4-6-20, I wrote a letter to an outside D.O.C. official about my problems here in Rocknew that enterled PREA related issues. The marter was referred to defendant Byerke (psych at Rocknew). I then engaged in constitutionally protected conduct (free speach via PREA report; 42 USCA. \$15601) and told Byerlee that PREA violations were enacted on me by multiple people in multiple places over the course of la years (this is generally paraphrased). Places include Rockney, S.C.I. Greensburg, and my county jail. Byerlee intentionally Sabadaged Certain parts of my report that lead to an adverse action; a misconduct (DC-141). The misconduct exposed highly sensitive medical type information and also labeled me as an

#### V. INJURY

Describe with specificity what injury, harm, or damages you suffered because of the events described above.

Violations of my constitutional rights as an independent injury that is cognizable and outside the purview of

#### VI. RELIEF

State exactly what you want the court to do for you. For example, you may be seeking money damages, you may want the court to order a defendant to do something or stop doing something, or you may be seeking both types of relief. If you are seeking monetary relief, state your request generally. Do not request a specific amount of money.

Nominal, Compensatory, and Punitive damages. Im seeking Insunctive relief in the following ways:

1. Body Cameras with audio for all D.O.C. Staff

informant for making an official report to staff on a fellow in mate (5). The misconduct was then entered into the D.O.C. computer which enabled non-essential staff to user it and show other immates. As an additional consequence, the gang members involved in the PREA wolcotions seen this information resulting in a "hit" being pet on me. The cosucil connection is that the 141 misconduct was based on the report Byerlee Sabataged, Punishing PREA victums or exposing their reports to non-essentical staff serves no governmental, penobgical, or public interest and the actions of the defendant could certainly deterr victums from making a report in the future. I also avere that this information shouldn't ever be exposed in any way under the well established rape shield laws. Acting off of defendant Byerlee's fraudulent report, defendants Rutherford and Miller did a PREA investigation The constitutionally protected conductions the PREA report. While these 2 were not involved in taking the report, it is their responsibility to do a "follow-up" moniter for retalication, monitor victums, provide Counseling, and make sure that victums can meet with staff. If they would've followed their own policy procedures, the report could've been corrected and a proper investigation would've been done. Instead, they violeted their own policy procedures and never once come to speak to me about the report. Since they violated policy, the adverse action was a 141 misconduct that exposed highly sensitive medical type information to non-essentral personnel ( via D.O.C. competer) that also labeled plaintiff as a "snitch." Inmotes colso seen this 141 misconduct and as a

result, the gang members who enacted the PREA violations on him put a "hit" on plaintiff. The casual connection is the scalatoged report and subsequently botched investigation coupled with bladent policy/procedure violations resulted in the 141 misconduct and threats by gang members. Punishing PREA victums or exposing their reports serves no governmental, penological, or public interest and the actions of defendants would certainly deterr victums from making a report in the future. I further covere that this type of information should never be exposed for any rooson (especially to non-essential personnel) under the well established rape shield lows.

## VIII Amendment

Defendants Byerlee, Rutherford, and Miller were all deliberately indifferent towards plaintiff when they issued a 141 misconduct that exposed highly sensitive medical type information and labeled plaintiff a "shitch" All D.D.C. employees are trained on how misconducts work, how to write them, and generally how they are handled. Defendants being trained in "PREA" know that these reports are confidential and highly sensitive All D.D.C. employees are also trained and taught that "shitches," homo-sexuals," and "sex offenders" are at a higher risk them others because of being labeled a "shitch," homosexuall, or "sex offender." Byerlee Sabataged the PREA report which lead to a botched in USStigation that was further hampered by Rutherford and Miller not following PREA policy/procedures. All 3 de Rendonts are required to work in tandom for PREA reports/ pg2

investigations, All 3 were personally involved. All 3 of them had the means to correct the PREA report in vestigation by (in Byerlee's case) re-doing the subchased report to unlo his misconduct or (in Rutherford and Miller's case) by abiding by policy/procedure which would've encubled them to correct the report and thus, do a proper investigation. All 3 defendants had personal knowledge of all sides of this problem, they were personally involved, and none of them corrected the problem despite having the power, means, and obligation to do so. Defendants Miller, Howsey, Rivella, Sherman, and Vangordor were deliberately indifferent towards plaintiff when they repeatedly dented him Ple. Playing It wrote request SNPS, Sent a suorn affidault via certified meil with retin reciept reguested, and submitted misconduct appeals (and "inmute versions") repeatedly to defendants (which were addressed by "PRG" defendants Miller, Houser, and Rivello, and "investigated" by Security, defendants Sherman and Vangordor) about gong members vanding to kill plaintiff. Defendants completely ighard plaintiff and repeatedly denied him Pic-Plaintiff was hever interviewed by security nor was anyone questioned, to plaintiff's knowledge Defendants "cleured" plaintiff to be sent to general population Several times despite their knowledge of threats to Plaintiff's 15fe. They even ordered plaintiff to move to an Enhanced Quarintine" block that was having a massive outbreak of confirmed COVID19 cases. They did this on 10-7-20, 11-5-20, 12-3-20, and 12-30-20 (sonding me to population and denying me P/c. 11-5-20 was the "Enhanced Quarindine" incident.). Plaintiff was forced to choose between P93

being Stubbed to death/certains COVIDIG or psychologice/ torture AKA Solltwy Confinement. Defendants could have, at any time, placed plaintiff on P/C instead of Keeping him punished for wanting for protecting his life. Plaintiff was punished for wanting safe conditions he's exitled to via the United States Constitution.

Defendants have pieced plaintiff on Alc Status on 1-14-21 pending a transfer to the "PCU" in S.C.I. Forest. This prison is notorious for it's extreme violence and high concentration of gang members. Defendants are intentionally sending plaintiff to a prison with a super high concentration of the same gangs has seeking protection from I'm not litigating over this yet, because I'm exhausting my remedies. I reserve the right to file a supplemental complaint once this process is finished.

## XIV Amendment

Defendants Millery Ruther ford, and Byerlee violated my equal protection rights as a patient seeting medical/psychological/
PREA type help when they didn't give me the same protection of the laws to similarly situated inmades. Philhtips PREA report was put on the D.O.C. Computer that non-essential personnel (I.E. Any C.O., Sgt., Ut., Counselor, Unit manager, (UL INARY STAFF, etc.) have access to and allow other inmades to view (unothicially of course). They also exposed that plaintiff made a PREA report on fellow inmades (Thus labeling him a "shitch"). Ihmates (similarly situated) who have HIV/AIDS, STI'S, Concer, prostate problems, or even athlete's foot 954

never have their medical Information displayed in such a fashion So why should a PREA victum's rape be displayed like this? Confidential informants are never exposed for any reason, yet my reporting on other innertes was essenticity made public A Confidential informant giving bad or even completely fraudulent information is never issued a misconduct even if such ainformation results in punitive results on another inmate. The actions of the defendants serve no governmental, penalogical, or public interest and have erroneasly put my life in danger by displaying highly sansitive medical information that labeled me a "shitch" To all non-essendial personnel contra to other inmades who are Similarly Situated\_ Defendants Miller, Hasen, Rivelly, Sherman, and Vongordon Wokated my equal protection of the laws when they repeatedly denied my reguests for P/c despite well documented throuts no my life. I hmarkes who are similarly situated are those involved in going violence linho requested P/c and recieved it, those who ran up drug debts (who requested P/c and recieved 1), and those Who were victums some of associt/sexual associt (who requested P/c and recieved 1+). While plaintiff made numerous requests, and went as for as sending a swarn approduct lucy certified men) with return reciept requested) to seccrity (defendants Vangordor and Sherman) and misconduct appears to PRC (defendants Houser, Miller, and Rivello), he are denied P/C 4 consecutive times by defindants. This forced plaintiff to Choose between being Stubbed to death/costching a lethal wires or psychological fortere in solitary confinement. As a result, plandiff was issued misconducts for protecting his life pas

from gang members and COUZD 19. Maintiff has constitutional rights to safe conditions and equal protections thereof, as does everyone else but no one else is having this problem.

Ergo, plaintiff is pursueing these claims as a "class of one."

## Jurisdictional Statement

This court has jurisdiction to hear state claims under 28 U.S.C. \$1367 using "supplemental jurisdiction", see: Hagans V. Lavine, 415 U.S. 528, 545-46, 94 S.Ct. 1372 (1974); United mine workers V. Gibbs, 383 U.S. 715, 725-26, 86. S.Ct. 1130 (1966).

# 42 U.S.C. \$ 1985 (3) Conspiracy Claims

Defendants Miller, Byerley and Rutherford engaged in a conspiracy to violate plaintiffs constitutional rights to deter him from pursuans anymore PREA complaints/concerns. I engaged in protected conduct (free speach, PREA complaint) and the multiple (3) defendants conspired to subatage it and expose plaintiffs highly sensitive medical information while at the same time labeling him a "snitch". The proof of this manifests itself through the subataged report and repeated violations of a list of established PREA policies procedures (any one of which would be corrected the problem completely). Fither the defendants encantered a total systemic failure of certified PREA regulations (on laundry list of levels) or (more likely) they Pg6

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### Legal claims

Simply conspired against picintiff. There are too many wolcowns of policy to be mere coincidences. The "meeting of the minds" 15 absolutely necessary in order to "investigate" and "concur" with fellow defendants about the report in general. Even it plaintiff wanted to, he couldn't name dates, places, or times they met because (besides the initial report) they never abided by policy (by dang follow-ups, etc.) nor did they wald they expose their "investigative" Steps/mouscres. Thus, making it impossible for plaintiff to give dutes and Limes, however, they do reffrance each other in what little papervork I did get (and policy instructs them to communicate. This makes the dates and times point self evident and consessary for the plaintiff to explain. Defindants Miller, Howser, Rivello, Sherman, and Vongardor conspired to violete plaintiff's right to live in Safe conditions. By Violating plaintiff's right to sake conditions, defendants forced me to choose between being Stubbed to death /cortaining a lethal wires or psychological torture in solitary con Rinement. Definitionts Shermen and Vangordor didn't properly investigate (if at all) and for the same reasons plantiff named for defindants Miller, Byerley and Rutherford (concerning PREA report), plaintiff commot give dates and times, Ranther, reports that plaintiff had recieved (misconduct appeal radionals issued by defendants Haser, Miller, and Rivella) clearly state that security has met and reviewed my concerns. This makes the date and time point unnecessary for plaintiff to explain. However, defendants Howser, Miller, and Rivelb met on 10-7-20, 11-5-20, 12-3-20, and 12-30-20 cet approx 9:30 AM (PRC meetings) and literally had a meeting of the minds" with

multiple defendants. Defendant Byerlee was also at these meetings.

42 U.S.C. \$1986 Conspiracy Claims

Defindants Miller, Bychee, Sherman, Vangardar, Hauser, and Rivella all knew of the above mentioned \$1985 (3) conspirary (and were involved as well) and did nothing to Stop/prevent it or report it in any way.

Intendional Infliction of Emplional Distress

All defindants acted with malicious intent with the intended purpose of intendianal infliction of emotional/psychological distress for/through the above listed scenarios and reasons.

### Injury

3 1997 (e) (the violention in and of itself is an injury and fulls under a seperate catagory of damages) i exposure to consafe conditions, mental torture and suffering; Denial of protective custody, threats to my like via Staff misconduct; being labeled on informant; highly sensitive medical /PREA information exposure; being ordered to live on COUZD19 Infested block; 1055 of liberty; loss of Quality of life restricted speech; intentional infliction of emotional distress; discriminated/ Conspired against; being forced to choose between death and psychological torture; loss of 27 phone calls perweet, loss of tv, tablet, keyboard, majority of religious books (due to property restrictions in RHU), other electronics, meaning full yard time, excersize equipment, conduct VISITS, Commissory, employment, outside "Secure" packages, Clothes (commissary ordered 'property" obthes), e-mails, attorney calls, lav library, Law assistance, get regular Chow From dinning hall, religious services, human contact (meaning full) 6 hours a day "out of cell "time, activities/events, ablirly to Shave when needed, Obtain legal work / legal supplies (due to RHU property 1smits); ptsD; long term psychological damage due to extensite solitary confinement placement

# Relief

	members on D.O.C. property.
The same of	2. A change in policy that enables inmakes to
1	grieve incidents that misconducts were issued over
- American	3. An outside party (outsid the D.D.C.) to investigate
The second second	Staff misconduct alleged in grievances (that can also
	review body comercis loudin, block comercis, ctc).
	4. A change in policy preventing any PREA related
- 4	information to be available to non-essential Staff.
S. Contraction of the Contractio	5. A change in policy preventing misconducts being
The Party of the P	Issued to PREA victims.
	6. A change in policy that clearly defines P/c
	requirements (How to obtain P/c, What priviledges are
Invocate handles	allowed to P/C inmodes, where they are to be housed, when
	it's appropriate to transfer them, from to get off of
	$\frac{P/c}{2}$ etc)
	7. A change in policy that enables the hearing
	examiner to put an inmate on P/c per inmates
-	request.
	8. Making PREA victims protected ender rape shield
	laus.
Designation of the last	
-	

PSI

#### VII. SIGNATURE

By signing this complaint, you represent to the court that the facts alleged are true to the best of your knowledge and are supported by evidence, that those facts show a violation of law, and that you are not filing this complaint to harass another person or for any other improper purpose.

Local Rule of Court 83.18 requires *pro se* plaintiffs to keep the court informed of their current address. If your address changes while your lawsuit is being litigated, you must immediately inform the court of the change in writing. By signing and submitting the complaint form, you agree to provide the Clerk's Office with any changes to your address where case-related papers may be served, and you acknowledge that your failure to keep a current address on file with the Clerk's Office may result in dismissal of your case.

Signature of Plaintiff

2-11-21

Date

